INTERFERENCE WITH RECEIVERS CONSTITUTING CONTEMPT. — It is a singular fact that, although there is practically no conflict on the question of how far a court will go in protecting its receiver, yet no case attempts to define the limitations of the court's powers in this respect. The courts have been content to rest each particular case on the indefinite proposition that any person intentionally interfering with the possession or management of a receiver is guilty of a contempt. This is because the receiver is an officer of the court appointing him, and his possession and management are those of the court.[1]

Notwithstanding, however, the breadth of the rule laid down, an examination of the cases shows that all contempts with reference to receivership may be brought within one of two classes. The first class consists of acts of physical or personal interference with the possession or management of the receiver. These may be illegal acts directed against the receiver or against anything under his control; [2] or they may be acts ordinarily legal which involve an ouster of the court from its possession or management of the property. Such are seizures by persons claiming superior title,[3] or by officers of another court levying under civil process.[4] An assertion of right should be made by application to the court appointing the receiver, for it stands ready to adjust the rights involved. The second class of contempts is less obvious than the first. It consists of suits brought against the receiver as such in another court. A few jurisdictions have refused to recognize this class,[5] but it is supported by the great weight of authority.[6] These are contempts for two reasons. Such suits necessarily force the court, through its receiver, to become a party to a suit in another court. Moreover, the court by establishing the receivership has sequestrated the property or business for its own exclusive jurisdiction for the purpose of caring for it and securing all rights concerned. Such suits are, therefore, an implication that the court cannot or will not do justice.

A recent English case suggests the serious question whether ordinary business competition, and, as involved in that, whether strikes during the receivership are contempts. *Dixon* v. *Dixon*, 89 L. T. 272 (Eng., Ch. D.). While in the language of a few cases the fact of striking against a receiver is a contempt,[7] an examination of the cases will reveal that these expressions are mere *dicta*. All the cases show acts of violence, intimidation, or conspiracies, within the undoubted class of ordinary illegal interference. The cases of business competition, likewise, show something illegal in addition to the fact of competition, such as misrepresentation amounting to a business libel,[8] or the use of a patent [9] to which the receiver had an exclusive right. It is believed that the classification submitted above, thus including all the decided cases, describes the proper limitations. For, it is to be noticed that while certain rights, such as the right to sue in another court or to personally assert a superior title, are destroyed by the application of this doctrine, still these are only formal rights. The substantial rights to

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[1] *In re* Tyler, 149 U. S. 164.
[2] *In re* Higgins, 27 Fed. Rep. 443.
[3] Moore *v.* Mercer Wire Co., 15 Atl. Rep. 737 (N. J.).
[4] Russell *v.* East Anglian Ry. Co., 3 Mac. & G. 104.
[5] Kinney *v.* Crocker, 18 Wis. 74; Allen *v.* The Central R. R. of Iowa, 42 Ia. 683.
[6] Thompson *v.* Scott, 4 Dill. (U. S. C. C.) 508.
[7] *In re* Higgins, *supra*.
[8] Helmore *v.* Smith, 35 Ch. D. 449.
[9] *In re* Woven, etc., Co., 12 Hun (N. Y.) 111.

property or damages still subsist, although they must be asserted only in one forum. The right to strike and the right to compete are, however, substantial, and not merely formal rights. These, together with all other substantial rights, such as titles or liens, should remain unaffected by the receivership. A receiver is appointed to continue a business or care for property in the ordinary business way. Special rights are not conferred; which would be the effect if the substantial rights of other parties were curtailed.

RECENT CASES.

ADMIRALTY — EXTENT OF FEDERAL JURISDICTION. — A contract was made for the repair in dry dock of a canal boat running on the Erie Canal. The statutes of New York give a lien for such repair. *Held*, that the lien is founded on a maritime contract, and hence subject to the exclusive admiralty jurisdiction of the federal courts. *Perry* v. *Haines*, 24 Sup. Ct. Rep. 8. See NOTES, p. 186.

ALIENATION OF AFFECTIONS — PLAINTIFF'S HUSBAND THE SEDUCING PARTY. — In an action for the alienation of a husband's affections, evidence was introduced tending to show that the husband had sought and solicited the defendant. *Held*, that the defendant is liable for damages regardless of whether she or the husband had been the active persuading party. *Hart* v. *Knapp*, 55 Atl. Rep. 1021 (Conn.).

The court reaches its conclusion by applying the analogy of actions by a husband for criminal conversation, in which it is no defense to show that the acts were committed by procurement of the wife. *Bedan* v. *Turney*, 99 Cal. 649. These actions for criminal conversation are commonly allowed on the ground that the wife is incapable of giving such consent as will bar recovery. The fundamental basis of this rule is that defilement of the marriage bed is the gist of the action, and consequently proof of the unlawful act of intercourse alone is sufficient. Actions for alienation of affections, however, are sustained on a different basis, namely, loss of *consortium*, and it would seem to follow that recovery should not be allowed unless the defendant is shown to have been instrumental in depriving the husband or the wife of the other's conjugal society. By the better view, therefore, in order to maintain an action for the alienation of a husband's affections, it must affirmatively appear that the defendant was the active persuading party. *Churchill* v. *Lewis*, 17 Abb. New Cas. 226; *Waldron* v. *Waldron*, 45 Fed. Rep. 315.

ARREST — PRIVILEGE — PERSON UNDER BAIL FOR ANOTHER OFFENSE. — The petitioner was indicted by a Federal grand jury in New York, arrested by virtue of a warrant issued by a United States commissioner, and admitted to bail. He was later indicted in the District of Columbia, and re-arrested on a second warrant issued by the same commissioner. *Habeas corpus* proceedings were brought. *Held*, that the second arrest should be vacated. *United States* v. *Beavers*, 30 N. Y. L. J. 481 (U. S. Dist. Ct., S. D. N. Y.).

The court considers it immaterial that the petitioner had given bail on the first arrest instead of remaining in the marshal's care, considering the custody of the sureties but a continuance of the original imprisonment. This reasoning accords with general statements frequently made as to the nature of bail, but ignores at least one important difference. A person in the care of his sureties may ordinarily, by forfeiting his bail, leave the jurisdiction, but one in the hands of the marshal cannot. The result of the doctrine of the principal case would be that one under light bail for an assault would be exempted from arrest for treason, and given time to escape. All the previous authorities found are against such a conclusion. See *Ingram* v. *State*, 27 Ala. 17; *Wheeler* v. *State*, 38 Tex. 173. Action under one arrest may easily be suspended until the proceedings resulting from the other are terminated, and thus contradictory orders may be avoided. This has been done even where the two offenses were against different sovereignties. *In re James*, 18 Fed. Rep. 853.

ATTORNEY AND CLIENT — DEFENSE OF AN INDIGENT — LIABILITY OF COUNTY FOR COMPENSATION. — *Held*, that a statute providing that a court may award compensation to counsel assigned for the defense of an indigent prisoner is not in violation of